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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,777	01/06/2000	JOANNE S. WALTER	8998	2149

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EXAMINER

BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/478,777

Applicant(s)

WALTER, JOANNE S.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-17,19,20 and 27-37 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-9,11-17,19,20 and 27-37 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Claims 2, 10, 18 and 21-26 have previously been canceled. Claims 1, 3-9, 11-17, 19-20 and 27-37 are currently pending in the application.

Claim Rejections under 35 USC § 101 have been withdrawn due to the applicant amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 35-37 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The following new matter was introduced into the claims:

As per claims 35-37: "second voice type is ...*suggestive that failure to complete the task is a security violation*".

The examiner points out that pages 22 (lines 12-17) and 24 (lines 13-14) disclose: "that when the security software agent ... has determined that the customer is operating the terminal ... in a manner to commit ... theft, the message may be broadcast in ... stern voice type so as to convey the impression of *seriousness* to the customer".

The page 23 (lines 20-21) of specification discloses: "... message may be broadcast at a voice inflection level which conveys an impression of *greater urgency or seriousness*...".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-9, 11-17, 19-20, 27-34 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (U. S. 5,083,638) in view of Sato (U. S. 5,949,854) and further in view of Masson et al. (US 4,908,850).

Schneider teaches a method and system for automated point-of-sale machine, comprising:

As per claim 1, 9, 17 and 27,

- generating a first voice instruction in a first voice tonality, which instructs a user in regard to operation of the retail terminal (column 11, lines 24-33);
- determining if said user performs a first activity and generating a proper-response control signal in response thereto (column 11, lines 33-36);
- generating an appropriate second voice instruction in a second voice tonality, which instructs a user in regard to operation of the retail terminal prior to generation of the proper-response control signal (column 11, lines 33-36);
- determining if said user performs a second activity and generating an improper-response control signal in response thereto (column 15, lines 13-28);
- generating a third voice instruction in a third voice tonality, which instructs a user in regard to operation of the retail terminal in response to generation of said improper-response control signal (column 15, lines 13-28).

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However, Schneider does not specifically teach a voice type of voice instructions, and does not teach that instructing a user if a predetermined amount of time lapses subsequent to generation of the first voice instruction.

Sato teaches a voice response service method and system, comprising a tone controller for selecting a tone of the voice responses, and an intonation generating circuitry (portion) for generating intonation patterns (column 9, lines 38-45).

Masson et al. teach a method and system for voice services network with automated billing, including monitoring a user interaction with a terminal (computer), wherein a user is verbally prompted for the user's account number, and wherein if the user does not perform the required action within a predetermined length of time, the user is verbally prompted second time (column 6, lines 54-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schneider to include a voice type and voice inflection selection capability as taught by Sato, because it would advantageously improve the performance of the system by alerting customer of his/her improper interaction with the system by changing the voice tone and intonation of the instructions. And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schneider and Sato to include instructing a user if a predetermined amount of time lapses subsequent to generation of the first voice instruction, as taught by Masson et al., because it would advantageously help inexperienced users to properly conduct the transaction.

As per claims 3, 11, 19 and 29, Schneider teaches said method and system, wherein, when "Main Algorithm" determines that a user performs an improper activity, an image of personnel-needed situation is displayed to a supervisor so that the supervisor can interfere (Figs. 4a-4d; column 8, lines 55-68; column 15, lines 8-31).

As per claims 4, 12, 20 and 30, Sato teaches said apparatus and method, comprising a volume controller which sets a volume level of a voice response (column 18, lines 36-38).

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As per claims 5, 7, 13, 15, 31 and 33, Sato teaches said apparatus and method, comprising an intonation generating portion which generates the intonation pattern indicating the voice pitch (column 9, lines 38-45).

As per claims 6, 8, 14, 16, 32 and 34, Sato teaches said apparatus and method, comprising a tone controller wherein voice quality of the voices can be at least one of a male voice and a female voice (column 3, lines 9-11).

Schneider teaches a method and system for automated point-of-sale machine, comprising:

As per claims 36 and 37,

- generating a first voice instruction in a first voice type, which instructs a user to perform a task during a transaction by said retail terminal (column 11, lines 24-33);
- determining if said user performs said task (column 11, lines 33-36);
- determining if said user performs a second activity and generating an improper-response control signal in response thereto (column 11, lines 33-36);
- generating an improper-response control signal in response to determining if said user fails to perform the task (column 15, lines 13-28).

Schneider does not specifically teach a voice type of voice instructions, and does not teach that instructing a user if a predetermined amount of time lapses subsequent to generation of the first voice instruction.

Sato teaches a voice response service method and system, comprising a tone controller for selecting a tone of the voice responses, and an intonation generating circuitry (portion) for generating intonation patterns (column 9, lines 38-45).

Masson et al. teach a method and system for voice services network with automated billing, including monitoring a user interaction with a terminal (computer), wherein a user is verbally prompted for the user's account number, and wherein if the user does not perform the required action within a predetermined length of time, the user is verbally prompted second time (column 6, lines 54-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schneider to include a voice type and voice inflection selection capability as taught by Sato, because it would advantageously improve the performance of the system by alerting customer of his/her improper interaction with the system by changing the voice tone and intonation of the instructions. And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schneider and Sato to include instructing a user if a predetermined amount of time lapses subsequent to generation of the first voice instruction, as taught by Masson et al., because it would advantageously help inexperienced users to properly conduct the transaction.

Information as to *suggestive that failure to complete the task is a security violation* is non-functional language and not given patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed. The method steps, disclosed in Schneider in view of Sato would be performed the same regardless if the second voice instruction is being *suggestive that failure to complete the task is a security violation*, or not.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of Sato.

Schneider teaches said method and system for automated point-of-sale machine, comprising:

As per claim 35,

- generating a first voice instruction in a first voice type, which instructs a user to perform a task during a transaction by said retail terminal (column 11, lines 24-33);

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- determining if said user performs the task (column 11, lines 33-36);
- generating an improper-response control signal in response to determining if said user fails to perform the task (column 15, lines 13-28).

Schneider does not specifically teach a voice type of voice instructions, and does not teach that instructing a user if a predetermined amount of time lapses subsequent to generation of the first voice instruction.

Sato teaches a voice response service method and system, comprising a tone controller for selecting a tone of the voice responses, and an intonation generating circuitry (portion) for generating intonation patterns (column 9, lines 38-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schneider to include a voice type and voice inflection selection capability as taught by Sato, because it would advantageously improve the performance of the system by alerting customer of his/her improper interaction with the system by changing the voice tone and intonation of the instructions.

Information as to *suggestive that failure to complete the task is a security violation* is non-functional language and not given patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed. The method steps, disclosed in Schneider in view of Sato would be performed the same regardless if the second voice instruction is being *suggestive that failure to complete the task is a security violation*, or not.

Response to Arguments

Applicant's arguments filed 6/22/2004 have been fully considered but they are not persuasive.

In response to applicant's argument's that the prior art fails to disclose generating different voice types during a transaction with a customer based upon proper, improper or untimely responses from the customer, it is noted that Schneider was applied to show generating a first voice instruction which instructs a user to perform a task during a transaction (C. 11, L. 24-33); and generating an improper-response control signal in response to determining if said user fails to perform the task (C. 15, L. 13-28). Sato was applied to show selecting a tone of the voice responses, and generating an intonation for generating intonation patterns in customer service applications (C. 9, L. 38-45). Masson et al. was applied to show verbally prompting a user for a task, and wherein if the user does not perform the task within a predetermined length of time, the user is verbally prompted second time (column 6, lines 54-60).

The motivation to combine Schneider in view of Sato would be to improve the performance of the system by alerting customer of his/her improper interaction with the system by changing the voice tone and intonation of the instructions. And motivation to combine Schneider and Sato in view of Masson et al. would be to help inexperienced users to properly conduct the transaction (See discussion above).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

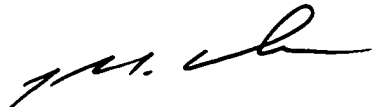
or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

IB

10/10/2004


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